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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ANOOP RAJKUMAR,

Plaintiff,

vs.

CISCO SYSTEMS, INC., VENU
DHARMAPURI, and KENNY PAUL, et
al.,

Defendants.

Case No. C08-01600-PVT

**NOTICE OF MOTION, MOTION, AND
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANTS CISCO SYSTEMS, INC.,
VENU DHARMAPURI, AND KENNY
PAUL'S MOTION TO CONTINUE CASE
MANAGEMENT CONFERENCE FROM
JULY 15, 2008**

UNOPPOSED

TO THE COURT, THE PARTIES, AND THEIR COUNSEL OF RECORD:

Cisco Systems, Inc., Venu Dharmapuri, and Kenny Paul (hereinafter "Cisco Defendants") hereby move the Court for an order continuing the Case Management Conference currently on calendar for July 15, 2008 to August 5, 2008 pursuant to Local Rule 6. Good cause exists to continue the Case Management Conference because the parties are scheduled to appear before the Court on August 5th for hearing on motions to dismiss filed by Cisco Defendants and Defendant Wipro Technologies, Inc. ("Wipro"). This motion is based on this motion and accompanying memorandum of points and authorities, and the accompanying declaration of Dennis J. Sinclitico, Jr.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Cisco Defendants come before the Court seeking to continue the Case Management Conference (“CMC”) from July 15, 2008 to August 5, 2008. Counsel for Cisco Defendants, Dennis Sinclitico, had reached an agreement with *pro se* Plaintiff Anoop Rajkumar to move the CMC to August 5th, the same day as Cisco Defendants’ and Wipro’s motions to dismiss his complaint. Declaration of Dennis J. Sinclitico (“Sinclitico Decl.”), Ex. A. After Mr. Sinclitico forwarded Mr. Rajkumar a stipulation for his signature, Mr. Rajkumar advised that, while he had no objection to the continuance, he would not execute the stipulation to file with the Court. Each of the other parties that have appeared in the case has agreed to continue the CMC to August 5th. In accordance with Local Rule 6-3, Cisco Defendants now move the Court for an order to continuing the CMC to August 5, 2008.

II. STATEMENT OF FACTS

On March 24, 2008, Mr. Rajkumar filed a complaint alleging Cisco, two Cisco employees, and various other entities conducted a campaign of wiretapping and unlawful surveillance against him. Cisco Defendants were served with the Complaint on or about May 29, 2008. Included with the Complaint and Summons was the Court’s Order Setting Initial Case Management Conference, which listed July 15, 2008 as the date of the CMC. Cisco Defendants filed their motion to dismiss on June 18th, with a hearing date of August 5th.

Thereafter, Mr. Sinclitico contacted Mr. Rajkumar to inquire about his willingness to continue the CMC to the date of the hearing on the motion to dismiss. Sinclitico Decl, ¶ 3. Mr. Rajkumar agreed to the proposed continuance, writing, “In that case I will agree to moving the Case Management Conference to August 5th 2008...” Sinclitico Decl., Ex. A. On June 23rd, Mr. Sinclitico sent Mr. Rajkumar a stipulation and proposed order memorializing the agreement to continue the CMC. Sinclitico Decl., ¶ 4. Having not received the executed stipulation, Mr. Sinclitico attempted to contact Mr. Rajkumar by email and telephone, finally reaching him on July 2nd. Sinclitico Decl., ¶ 5.

On July 2nd, Mr. Rajkumar advised that he would not object continuing the CMC to

August 5th, as they previously agreed. Sinclitico Decl., ¶ 6. Inexplicably, however, Mr. Rajkumar advised that he was unwilling to sign the stipulation to file with the Court. Sinclitico Decl., ¶ 7. Mr. Rajkumar refused to return a subsequent phone call asking him to reconsider his position, to obviate the need for this motion. Sinclitico Decl., ¶ 8. As of this writing, Mr. Sinclitico has received no further response from Mr. Rajkumar. Sinclitico Decl., ¶ 9.

Defendants Wipro and Deloitte Consulting have appeared in the case and both have agreed to the proposed continuance. Sinclitico Decl., ¶ 10. As of this writing, Defendant Naval Mohta has not appeared in the case.

III. ARGUMENT

A. Each of the elements of Local Rule 6-3 supports the proposed continuance.

Civil Local Rule 6-3 governs motions to change the timing of case management conferences. The Declaration of Dennis Sinclitico, submitted herewith, addresses each of the elements of Local Rule 6-3 as follows:

1. **Sets forth with particularity, the reasons for the requested enlargement or shortening of time-** The CMC should be continued to avoid requiring the parties to appear twice in a two week period. Further, given Mr. Rajkumar's prior statement that he would agree to the continuance, the parties are now left without sufficient time to complete the Court's meet and confer and disclosure requirements in a timely fashion. Sinclitico Decl. ¶ 11.
2. **Describes the efforts the party has made to obtain a stipulation to the time change-** Mr. Sinclitico obtained written confirmation from Mr. Rajkumar that he would agree to move the CMC to August 5th. Mr. Rajkumar refused to provide any explanation as to why he refused to execute the stipulation memorializing that agreement. Mr. Rajkumar has advised that he did not object to the continuance. Counsel for Wipro and Deloitte Consulting have both agreed to the proposed continuance. Sinclitico Decl. ¶ 12., Ex. A.
3. **Identifies the substantial harm or prejudice that would occur if the Court did not change the time-** There are four separate groups of defendants in this matter:

Cisco Defendants, Wipro, Deloitte Consulting, and individual Naval Mohta (who has not yet appeared). The interests of judicial economy are not served by requiring representatives of all of these parties to appear twice in the span of less than two weeks. Moreover, given Mr. Rajkumar's prior agreement to continue the CMC, the parties do not have sufficient time to complete the Court's pre-CMC meet and confer requirements. Sinclitico Decl. ¶ 13.

4. Not applicable.

5. Discloses all previous time modifications in the case, whether by stipulation or Court order- There have been no prior time modifications in the case. Sinclitico Decl. ¶ 14.

6. Describes the effect the requested time modification would have on the schedule for the case- Given that the requested continuance is less than three weeks, the requested modification will have a negligible effect on the schedule for the case. Sinclitico Decl. ¶ 15.

For each of these reasons, Cisco respectfully requests that the Court enter an order continuing the Case Management Conference from July 15, 2008 to August 5, 2008.

Dated: July 2, 2008

MORGAN, LEWIS & BOCKIUS LLP

By



Dennis J. Sinclitico, Jr.

Attorneys for Defendants
Cisco Systems, Inc., Venu Dharmapuri,
and Kenny Paul